IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2660 OF 2005

Dr. Sanjay Jagannath Patil & Anr ...Petitioners

Versus

Ulhas Chandrakant Pradhan & Anr ...Respondents

.....

Mr. Sanjeev J. Rairkar, Advocate for Petitioners

Mr. Niranjan Mundargi, Advocate for the Respondent No.1.

Mr. Y.S. Shinde, A.P.P. for State.

.....

CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 21ST JULY, 2005

P. C.:-

1. Heard both sides.

2. The petitioners have prayed for quashing of process issued against them in Criminal Case No. 311(S) of 2003 which is pending in the Court of learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai. In the said case, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act. The petitioners had preferred an application before the learned Magistrate for recall of process. The said application is pending. However, in view of the

decision of the Supreme Court in the case of **Adalat Prasad Vs. Rooplal Jindal and Ors. reported in 2004 (4) Mh.L.J. 274,** the petitioners have approached this Court.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today. The learned advocate for the respondent i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

*****